

ENTERED

March 20, 2024

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

TARGA GAS MARKETING LLC,

§

Plaintiff,

§

VS.

§

KOCH ENERGY SERVICES, LLC,

§

Defendant.

§

§

§

§

Civil Case No. 4:21-CV-01258

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the February 20, 2024 Memorandum and Recommendation ("M&R") prepared by Magistrate Judge Peter Bray. (Dkt. No. 108). Judge Bray made findings and conclusions and recommended that Defendant's Motion for Partial Summary Judgment on Claims of Force Majeure by Affiliates of Targa Gas Marketing LLC (Targa), (Dkt. No. 49), be denied.

The Parties were provided proper notice and the opportunity to object to the M&R.

See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). On March 5, 2024, Defendant filed three objections to Judge Bray's M&R. (Dkt. No. 109). First, Defendant objects to Judge Bray's finding of no evidence showing that Plaintiff's claim of force majeure was based on any affiliate's force majeure claim. *Id.* at 16–18. Second, Defendant objects to Judge Bray's conclusion that the amended Base Contract prohibits an affiliate from claiming force majeure to the same extent as Plaintiff would be prohibited from claiming force majeure on its own behalf. *Id.* at 18–23. Third, Defendant objects to Judge Bray's finding that a

genuine dispute of material fact on the parties' course of performance precluded summary judgment on that issue. *Id.* at 23–25.

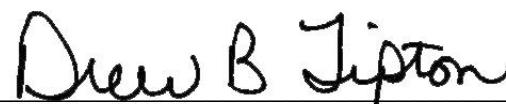
In accordance with 28 U.S.C. § 636(b)(1)(C), the Court is required to "make a de novo determination of those portions of the [magistrate judge's] report or specified proposed findings or recommendations to which objection [has been] made." After conducting this de novo review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.*; see also Fed. R. Civ. P. 72(b)(3).

The Court has carefully considered de novo those portions of the M&R to which objection was made and reviewed proposed findings, conclusions, and recommendations for plain error. Finding no error, the Court accepts the M&R and adopts it as the opinion of the Court.

It is therefore ordered that: Judge Bray's M&R (Dkt. No. 108) is **ACCEPTED** and **ADOPTED** in its entirety as the holding of the Court; and Defendant's Motion for Partial Summary Judgment on Claims of Force Majeure by Affiliates of Targa Gas Marketing LLC (Targa), (Dkt. No. 49), is **DENIED**.

It is SO ORDERED.

Signed on March 20, 2024.



DREW B. TIPTON
UNITED STATES DISTRICT JUDGE